

IN RE: PETITION FOR VARIANCE
NE/Corner Westwicke Lane and Scotts
Knoll Court
(1104 Westwicke Lane)
8th Election District
3rd Councilmanic District

John L. Kenneally and
Barbara L. Shifflett - Petitioners

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 99-224-A
*

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner for consideration of a Petition for Variance filed by the owners of the subject property, John L. Kenneally and Barbara L. Shifflett, through their attorney, Michael P. Tanczyn, Esquire. The Petitioners seek relief from Section 1A04.3.A of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a height of 44 feet in lieu of the maximum permitted 35 feet for a single family dwelling, and from Section 300.1.A of the B.C.Z.R. to confirm that a chimney, parapet walls or similar structures, which are less than 25% of the roof area of the building, may extend more than 4 feet above the limiting height. The subject property and relief sought are more particularly described on the site plan submitted, which was accepted and marked into evidence as Petitioner's Exhibit 1.

Appearing at the hearing on behalf of the Petition were John Kenneally and Barbara Shifflett, property owners, Herbert Malmud, Registered Land Surveyor who prepared the site plan of this property, and Michael P. Tanczyn, Esquire, attorney for the Petitioners. Appearing as a Protestant in the matter was James Farnum, adjoining property owner.

Testimony and evidence presented revealed that the subject property consists of a gross area of 2.137 acres, more or less, zoned R.C.5, and is currently being developed with a single family dwelling. Apparently, during the course of a routine construction inspection, the

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Date

By

Petitioners were advised that the height of the dwelling exceeded that permitted by the zoning regulations and that a variance was required. The Petitioners testified that they obtained two building permits, copies of which were entered into evidence as Petitioner's Exhibits 4A and 4B, which show that the proposed dwelling would be constructed at a height of 52 feet. Both permits were reviewed and approved by representatives of the Department of Permits and Development Management. The Petitioners commenced construction of the dwelling and had reached the point where the structure was completely under roof before they were issued a stop work order and advised that a variance was needed due to the height of the dwelling. The Petitioners have since taken field measurements of the structure and determined that the house is actually only 44 feet tall. Nevertheless, that height exceeds the maximum allowed 35-foot height; thus, a variance is still necessary in order to complete construction of the dwelling in accordance with their plans.

Mr. James Farnum, who resides to the rear of the subject property, appeared in opposition to the Petitioners' request. Mr. Farnum testified that he is not opposed to the height of the dwelling, but is concerned about its overall appearance from his property. Thus, he requested that additional landscaping be provided along the rear of the property to buffer the height of the house from his property.

At the close of the hearing, all parties were given an opportunity to discuss appropriate landscaping options for the rear of the subject property and a decision on the matter was held in abeyance until such time as an agreement could be reached. This Deputy Zoning Commissioner also made a site visit to the property and surrounding area. As noted on the permits, the subject house is approximately 18,000 sq.ft. in area. During my site visit to the property, I observed that many of the other homes in this community are of similar size and some also appear to exceed the

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Date

By

maximum permitted height of 35 feet. It was also noted that the house is centered on the subject property and some natural screening is already provided along the rear property line.

As noted above, the parties were given an opportunity to develop a mutually acceptable landscape plan for my review and approval prior to my making a decision in this matter. Unfortunately, the parties could not reach an agreement, and each party submitted their own proposal as to what they thought would be appropriate landscaping for this property. Their respective proposals differed significantly. Thus, by copy of this Order to Mr. Avery Harden, Landscape Architect for Baltimore County, I am requesting that he determine what type of screening and landscaping would be appropriate for this property, taking into consideration the respective proposals submitted by each party. Furthermore, as a condition of approval, the relief requested shall be granted, contingent upon the Petitioners' compliance with Mr. Harden's recommendations.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether a grant of the variance would do a substantial justice to the applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give sufficient relief; and,
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

After due consideration of the testimony and evidence presented, it is clear that practical difficulty or unreasonable hardship will result if the variance is not granted. It has been

established that special circumstances or conditions exist that are peculiar to the subject property and that strict compliance with the zoning regulations will unduly restrict the use of the land due to the special conditions unique to this particular parcel. In my view, the Petitioners acted in good faith and relied upon the two building permits issued by Baltimore County that the subject dwelling could be constructed to a maximum height of 52 feet. In reliance of those permits, the Petitioners proceeded with the construction of their home, which is now under roof. Furthermore, it has been determined that the dwelling is actually only 44 feet tall. To require the Petitioners to reduce the height of the dwelling by 9 feet to meet the maximum allowed 35-foot height, would be absurd and result in a practical difficulty and unreasonable hardship for the Petitioners. In addition, the relief requested will not cause any injury to the public health, safety or general welfare, and meets the spirit and intent of the B.C.Z.R. Thus, I am persuaded to grant the variance, subject to the restrictions set forth hereinafter.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the variance requested should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 17th day of March, 1999 that the Petition for Variance seeking relief from Section 1A04.3.A of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a height of 44 feet in lieu of the maximum permitted 35 feet for a single family dwelling, and from Section 300.1.A of the B.C.Z.R. to confirm that a chimney, parapet walls or similar structures, which are less than 25% of the roof area of the building, may extend more than 4 feet above the limiting height, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

- 1) The Petitioners may apply for their permits and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this

ORDER RECEIVED FOR FILING

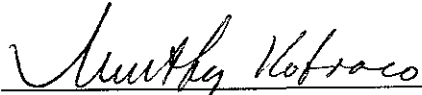
Date

By

time is at their own risk until the 30-day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.

- 2) Compliance with the landscaping recommendations made by Mr. Avery Harden, Landscape Architect for Baltimore County.
- 3) When applying for any permits, the site plan and landscaping plan filed must reference this case and set forth and address the restrictions of this Order.

TMK:bjs


TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

ORDER RECEIVED FOR FILING

Date 3/12/99



Baltimore County
Zoning Commissioner
Office of Planning

Suite 405, County Courts Bldg.
401 Bosley Avenue
Towson, Maryland 21204
410-887-4386

March 17, 1999

Michael P. Tanczyn, Esquire
606 Baltimore Avenue, Suite 106
Towson, Maryland 21204

RE: PETITION FOR VARIANCE
NE/Corner Westwicke Lane and Scotts Knoll Court
(1104 Westwicke Lane)
8th Election District - 3rd Councilmanic District
John L. Kenneally and Barbara L. Shifflett - Petitioners
Case No. 99-224-A

Dear Mr. Tanczyn:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Variance has been granted, in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Zoning Administration and Development Management office at 887-3391.

Very truly yours,

A handwritten signature in dark ink, reading "Timothy Kotroco".

TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

cc: Mr. John L. Kenneally & Ms. Barbara L. Shifflett
12503 Fellowship Court, Reisterstown, Md. 21136
Mr. James R. Farnum, Jr.
1111 Somerset Place, Lutherville, Md. 21093
Mr. Avery Harden, DPDM; People's Counsel; Case File





Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 1104 Westwicke Lane

which is presently zoned RC5

This Petition shall be filed with the Department of Permits & Development Management

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s) 1A04.3A to provide a maximum height of 44 feet in lieu of the required 35 feet. From Section 300.1A to provide a chimney, parapet walls or similar structures, not having a horizontal area greater than 25% of the roof area of the building may to extend more than four feet above the limiting height.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (indicate hardship or practical difficulty)

See attached.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contract Purchaser/Lessee:

(Type or Print Name)

Signature

Address

City

State

Zipcode

Attorney for Petitioner:

Michael P. Tanczyn, Esq.

(Type or Print Name)

Signature

Suite 106, 606 Baltimore Ave.

Address

Phone No.

Towson

MD

21204

City

State

Zipcode

410-296-8823

Printed with Soybean Ink
on Recycled Paper

Revised 9/5/95

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Legal Owner(s):

John L. Kennelly

(Type or Print Name)

John L. Kennelly

Signature

Barbara L. Shifflett

(Type or Print Name)

Barbara Shifflett

Signature

12503 Fellowship Court

Address

Phone No.

Reisterstown

MD

21136

City

State

Zipcode

Name, Address and phone number of representative to be contacted.

Herb Malmud - Herb Malmud & Assoc.

Name

100 Church Lane Baltimore,

Address

MD 21208

410-308-0442

Phone No.

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

unavailable for Hearing

the following dates

Next Two Months

ALL

OTHER

REVIEWED BY:

DATE

99-224-A

ORDER RECEIVED FOR FILING

Date

By

DROP OFF
NO REVIEW

11/30/98

401

The practical difficulty encountered by the owners is that their plans were approved by several architects and by Baltimore County, which twice issued building permits authorizing a 52 foot height, and the house has been constructed to a degree, and was approved by the local homeowners association, and to an extent that compliance with the regulations would constitute, under the circumstances of this case, a severe practical difficulty for the Petitioners, whose house is in keeping with those in the neighborhood and whose property is uniquely situated and uniquely affected by the topography and as built road elevations for this community. Additional reasons, evidence and arguments to support the Variance Request will be presented at the time of hearing.

H. MALMUD & ASSOCIATES, INC.
100 CHURCH LANE
BALTIMORE, MARYLAND 21208

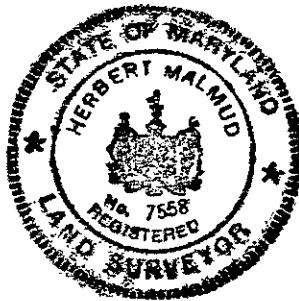
TELEPHONE 410 653-9511

ZONING DESCRIPTION
1104 WESTWICKE LANE
BALTIMORE COUNTY, MARYLAND

BEING KNOWN AND DESIGNATED AS LOT NUMBER 27 ON A SUBDIVISION
PLAT ENTITLED "PLAT OF WESTWICKE" RECORDED AMONG THE LAND RECORDS
OF BALTIMORE COUNTY IN PLAT BOOK 68, FOLIO 88.

CONTAINING 93,070 SQUARE FEET OR 2.137 ACRES OF LAND, MORE OR LESS.

THIS DESCRIPTION IS FOR ZONING PURPOSES ONLY AND NOT FOR THE
CONVEYANCE OF TITLE.



HERBERT MALMUD
REGISTERED LAND SURVEYOR
MARYLAND # 7558

NOVEMBER 12, 1998

FILE: DESWESTW

99.224-A

**NOTICE OF ZONING
HEARING**

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing in Towson, Maryland on the property identified herein as follows:

Case: #99-224-A
1104 Westwicke Lane
NEC Westwicke Lane and
Scotts Knoll Court
8th Election District
3rd Councilmanic District
Legal Owner(s): Barbara Shifflett & John Kenneally

Variance: to permit a maximum height of 44 feet in lieu of the required 35 feet; and to confirm that a chimney, parapet walls or similar structures less than 25% of the roof area may extend more than 4 feet above the limiting height.

Hearing: Monday, January 11, 1999 at 10:00 a.m. in Room 407, County Courts Bldg., 401 Bosley Avenue.

LAWRENCE E. SCHMIDT
Zoning Commissioner for
Baltimore County

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Call (410) 887-3353.

(2) For information concerning the File and/or Hearing, Please Call (410) 887-3391.

12/298 Dec. 24 C280854

CERTIFICATE OF PUBLICATION

TOWSON, MD., 12/23/, 1998

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 12/23/, 1998.

THE JEFFERSONIAN,

A. Henickson

LEGAL AD. - TOWSON

**BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT**

No. **063018**

DATE 1/6/99 ACCOUNT 001-6150

AMOUNT \$2.00 (SCJ)

RECEIVED FROM: Harold H. Burns, Jr.

FOR: Copies - 2

Petition Of Case 99-224-A
1104 Westwicke Lane

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

PAID RECEIPT
PROCESS ACTUAL TIME
1/07/1999 1/06/1999 14:20:30
REG. 4506 CASHIER MUEL MFW DRAWER
5 MISCELLANEOUS CASH RECEIPT
Receipt # 062188 OFLH
CR. NO. 063018
2.00 CHECK
Baltimore County, Maryland

CASHIER'S VALIDATION

**BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT**

No. **060377**

DATE 11/30/98 ACCOUNT 001-6150

AMOUNT \$ 50.00 (WCR)

RECEIVED FROM: Michael P. Tanczyn

FOR: RESIDENTIAL VARIANCE Item #224

1104 Westwicke Lane Case #99-224-A

DROP-OFF — NO REVIEW

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

PAID RECEIPT
PROCESS ACTUAL TIME
12/02/1998 12/01/1998 16:25:31
REG. 4503 CASHIER PUES PEW DRAWER
5 MISCELLANEOUS CASH RECEIPT
Receipt # 067587 OFLH
CR. NO. 060377
50.00 CHECK
Baltimore County, Maryland

CASHIER'S VALIDATION

CERTIFICATE OF POSTING

RE: CASE # 99-224-A

PETITIONER/DEVELOPER:

(John Keanneally)

DATE OF HEARING/~~CLOSING~~:

(Jan. 26. 1999)

Baltimore County Department of
Permits and Development Management
County Office Building, Room 111
111 West Chesapeake Ave.
Towson, Maryland 21204

ATTENTION : MS. GWENDOLYN STEPHENS

LADIES AND GENTLEMEN:

This letter is to certify under the penalties of perjury that the necessary
sign(s) required by law were posted conspicuously on the property located
1104 Westwicke Lane Baltimore, Maryland 21093_____

The sign(s) were posted on _____ 1-9-99 _____
[Month, Day, Year]

Sincerely,

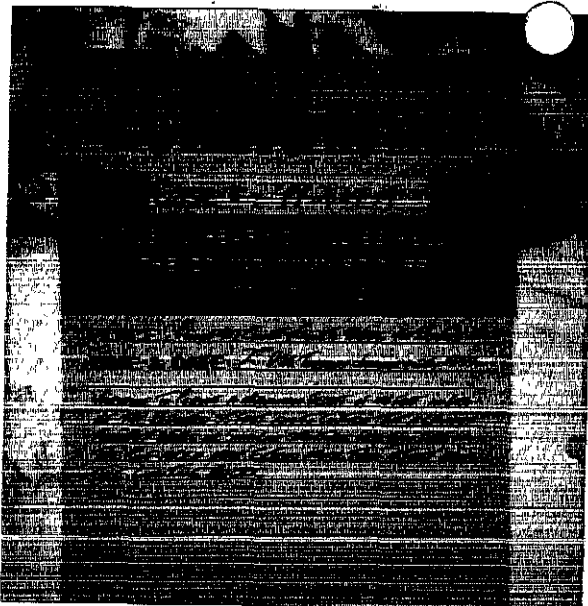

[Signature of Sign Poster & Date]

____ Thomas P. Ogle, Sr. _____

____ 325 Nicholson Road _____

____ Baltimore, Maryland 21221 _____

____ (410)-687-8405 _____
[Telephone Number]



RE: PETITION FOR VARIANCE
1104 Westwicke Lane, NEC Westwicke Ln
and Scotts Knoll Ct, 8th Election District,
3rd Councilmanic

Legal Owners: John Kenneally & Barbara Shifflett

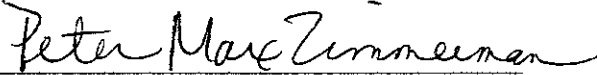
Petitioner(s)

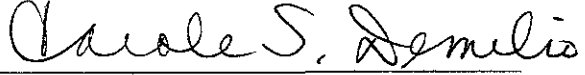
* BEFORE THE
* ZONING COMMISSIONER
* FOR
* BALTIMORE COUNTY
* Case Number: 99-224-A

* * * * *

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates of other proceedings in this matter and of the passage of any preliminary or final Order.


PETER MAX ZIMMERMAN
People's Counsel for Baltimore County


CAROLE S. DEMILIO
Deputy People's Counsel
Old Courthouse, Room 47
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 31st day of December, 1998, a copy of the foregoing Entry of Appearance was mailed to Michael P. Tanczyn, Esq., 606 Baltimore Avenue, Suite 106, Towson, MD 21204, attorney for Petitioner(s).


PETER MAX ZIMMERMAN



Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
pdmlandacq@co.ba.md.us

December 14, 1998

NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 99-224-A
1104 Westwicke Lane
NEC Westwicke Lane and Scotts Knoll Court
8th Election District – 3rd Councilmanic District
Legal Owner: Barbara Shifflett & John Kenneally

Variance to permit a maximum height of 44 feet in lieu of the required 35 feet; and to confirm that a chimney, parapet walls or similar structures less than 25% of the roof area may extend more than 4 feet above the limiting height.

HEARING: Monday, January 11, 1999 at 10:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue

A handwritten signature in cursive script, appearing to read "Arnold Jablon".

Arnold Jablon
Director

c: Michael P. Tanczyn, Esquire
Barbara Shifflett & John Kenneally
Herb Malmud & Associates

- NOTES: (1) **YOU MUST HAVE THE ZONING NOTICE SIGN POSTED ON THE PROPERTY BY DECEMBER 27, 1998.**
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 410-887-3353.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 410-887-3391.

Come visit the County's Website at www.co.ba.md.us



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TO: PATUXENT PUBLISHING COMPANY
December 24, 1998 Issue – Jeffersonian

Please forward billing to:

Michael P. Tanczyn, Esquire 410-296-8823
606 Baltimore Avenue
Suite 106
Towson, MD 21204

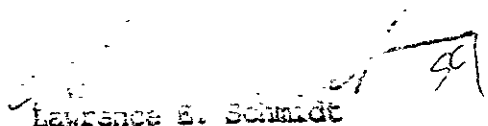
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HEARING: Monday, January 11, 1999 at 10:00 a.m. in Room 407, County Courts
Building, 401 Bosley Avenue


Lawrence E. Schmidt

LAWRENCE E. SCHMIDT
ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS
PLEASE CALL 410-887-3353.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, PLEASE CALL
410-887-3391.



Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
pdmlandacq@co.ba.md.us

November 30, 1998

Michael P. Tanczyn, Esquire
606 Baltimore Avenue
Suite 106
Towson, MD 21204

Dear Mr. Tanczyn:

RE: Drop-Off Petition, 1104 Westwicke Lane

At the request of the attorney/petitioner, the above referenced petition was accepted for filing without a final filing review by the staff. Once a detailed review has been completed by the staff, those comments will be forwarded to you (hopefully before the hearing).

As Baltimore County is no longer responsible for posting properties, I have enclosed the proper form pertaining to this. The sign must contain the wording indicated on the "Zoning Notice" form and the certificate of posting must be completed by the poster and returned to this office.

If you have any questions regarding the sign posting, please do not hesitate to contact Sophia Jennings at 410-887-3391.

Very truly yours,

WCR/scj

W. Carl Richards, Jr.
Zoning Supervisor
Zoning Review

WCR:scj

Enclosures

Come visit the County's Website at www.co.ba.md.us



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on Recycled Paper

Request for Zoning: Variance, Special Exception, or Special Hearing

Date to be Posted: Anytime before but no later than _____

Format for Sign Printing, Black Letters on White Background:

ZONING NOTICE

Case No.: 99-224-A

A PUBLIC HEARING WILL BE HELD BY
THE ZONING COMMISSIONER
IN TOWSON, MD

PLACE: _____

DATE AND TIME: _____

REQUEST: VARIANCE TO PERMIT A MAXIMUM
HEIGHT OF 44 FEET IN LIEU OF THE REQUIRED
35 FEET. AND TO CONFIRM THAT A CHIMNEY,
PARAPET WALLS OR SIMILAR STRUCTURES LESS
THAN 25% OF THE ROOF AREA MAY EXTEND

POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES NECESSARY.
TO CONFIRM HEARING CALL 887-3391.

DO NOT REMOVE THIS SIGN AND POST UNTIL DAY OF HEARING UNDER PENALTY OF LAW

HANDICAPPED ACCESSIBLE

MORE THAN 4 FEET ABOVE THE
LIMITING HEIGHT.



Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
pdmlandacq@co.ba.md.us

January 7, 1999

Mr. Herb Malmud
Herb Malmud & Associates
100 Church Lane
Baltimore, MD 21208

RE: Item No.: 224
Case No.: 99-224-A
Location: 1104 Westwicke Lane

Dear Mr. Malmud:

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM), on November 30, 1998.

The Zoning Advisory Committee (ZAC), which consists of representatives from several Baltimore County approval agencies, has reviewed the plans that were submitted with your petition. All comments submitted thus far from the members of the ZAC are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to ensure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. All comments will be placed in the permanent case file.

If you need further information or have any questions regarding these comments, please do not hesitate to contact the commenting agency.

Very truly yours,

A handwritten signature in cursive script, reading "W. Carl Richards, Jr.", followed by a stylized flourish.

W. Carl Richards, Jr.
Zoning Supervisor
Zoning Review

c: Michael P. Tanczyn, Esq., 606 Baltimore Ave., #606, Towson, MD 21204

WCR:ggs

Come visit the County's Website at www.co.ba.md.us



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on Recycled Paper

Enclosures

B A L T I M O R E C O U N T Y , M A R Y L A N D

I N T E R O F F I C E C O R R E S P O N D E N C E

TO: Arnold Jablon, Director
 Department of Permits & Development
 Management

Date: December 24, 1998

FROM:  Robert W. Bowling, Supervisor
 Bureau of Developer's Plans Review

SUBJECT: Zoning Advisory Committee Meeting
 for December 23, 1998
 Item Nos. 222, 223, 224, 225, 226,
 227, 228, 229, 231, 232, 233, 234,
 and 235

AND

Revised Petitions and Plats for
Case #99-159-XA (8101 Bellona Avenue)

The Bureau of Developer's Plans Review has reviewed the subject zoning items and revised petitions and plats, and we have no comments.

RWB:HJO:jrb

cc: File

ZONE1223.NOC

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

Date: December 28, 1998

TO: Arnold Jablon
FROM: R. Bruce Seeley *rmj/yp*
SUBJECT: Zoning Item #224

Westwicke Lot 27

Zoning Advisory Committee Meeting of December 14, 1998

----- The Department of Environmental Protection and Resource Management has no comments on the above-referenced zoning item.

----- The Department of Environmental Protection and Resource Management requests an extension for the review of the above-referenced zoning item to determine the extent to which environmental regulations apply to the site.

X The Department of Environmental Protection and Resource Management offers the following comments on the above-referenced zoning item:

----- Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Sections 14-331 through 14-350 of the Baltimore County Code).

X Development of this property must comply with the Forest Conservation Regulations (Section 14-401 through 14-422 of the Baltimore County Code).

----- Development of this property must comply with the Chesapeake Bay Critical Area Regulations (Sections 26-436 through 26-461, and other Sections, of the Baltimore County Code).



Baltimore County
Fire Department

Office of the Fire Marshal
700 East Joppa Road
Towson, Maryland 21286-5500
410-887-4880

December 11, 1998

Arnold Jablon, Director
Zoning Administration and Development Management
Baltimore County Office Building
Towson, MD 21204
MAIL STOP-1105

RE: Property Owner: SEE BELOW

Location: DISTRIBUTION MEETING OF December 14, 1998

Item No.: See Below

Zoning Agenda:

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

8. The Fire Marshal's Office has no comments at this time,
IN REFERENCE TO THE FOLLOWING ITEM NUMBERS:

223, 224, 225, 226, 227, 228, 229, 231, 234, and 235

REVIEWER: LT. HERB TAYLOR
Fire Marshal Office, PHONE 887-4881, MS-1102F

cc: File





Maryland Department of Transportation
State Highway Administration

Parris N. Glendening
Governor

David L. Winstead
Secretary

Parker F. Williams
Administrator

Date: 12.11.94

Ms. Gwen Stephens
Baltimore County Office of
Permits and Development Management
County Office Building, Room 109
Towson, Maryland 21204

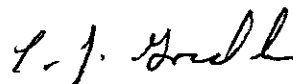
RE: Baltimore County
Item No. 224 WCR

Dear Ms Stephens:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not affected by any State Highway Administration projects.

Should you have any questions regarding this matter, please contact Larry Gredlein at 410-545-5606 or by E-mail at (lgredlein@sha.state.md.us).

Very truly yours,


for Michael M. Lenhart, Acting Chief
Engineering Access Permits Division

My telephone number is _____

Maryland Relay Service for Impaired Hearing or Speech
1-800-735-2258 Statewide Toll Free

Mailing Address: P.O. Box 717 • Baltimore, MD 21203-0717
Street Address: 707 North Calvert Street • Baltimore, Maryland 21202

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

*Jim
1/11
P.P.
H.P.
1/26*

TO: Arnold Jablon, Director
Department of Permits
and Development Management

Date: December 15, 1998

FROM: Arnold F. 'Pat' Keller, III, Director
Office of Planning

SUBJECT: Zoning Advisory Petitions

The Office of Planning has no comment on the following petition (s):
Item No (s): 218, 220, 223, 224, 225, 226, 227, 228, 231, and 232

If there should be any questions or this office can provide additional information, please
contact Jeffrey Long in the Office of Planning at 410-887-3480.

Section Chief:

Jeffrey W. Long

AFK/JL

Case 99-224A

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

1104 WESTWICK LANE

NAME

ADDRESS

Michael Tanczyn
Barbara Shifflett
John L. Kennally
Herb Malinud

57E 136 606 BALTIMORE AVE TOWSON, MD 21204
12503 Fellowship Ct Riistertown, MD 21136
12503 Fellowship Ct. Riistertown, MD 21136
100 CHURCH LA PIKEVILLE MD 21208



PLEASE PRINT CLEARLY

PROTESTANT(S) SIGN-IN SHEET

NAME

ADDRESS

JAMES EARNUM

111 SOMERSET PLACE
LUTHERVILLE, MD 21093



LAW OFFICES
MICHAEL P. TANCZYN, P.A.

Suite 106, 606 Baltimore Avenue
Towson, Maryland 21204
(410) 296-8823 • (410) 296-8824
Fax: (410) 296-8827 • Computer Fax: (410) 296-2848

November 18, 1998

The Honorable Arnold Jablon, Esquire
Director of Permits and Development Management
Baltimore County Office Building
111 West Chesapeake Avenue
Towson, MD 21204

Handwritten: 9/1-12/1/98

Re: Petition for a Variance -- 1104 Westwicke Lane
My Clients: John L. Kenneally and Barbara L. Shifflett

Dear Mr. Jablon:

Enclosed herewith for filing as a "drop-off" Petition, you will find the following:

- Three signed original copies of the Petition for a Variance with attachments
- Twelve plats to accompany Petition for a Variance
- Three sealed Engineers Descriptions
- My check for costs made payable to Baltimore County

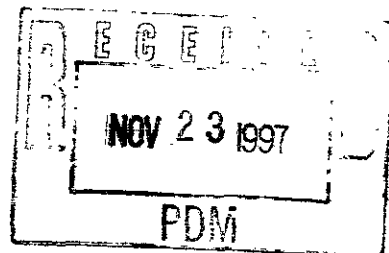
Please notify us of all hearing dates and posting information for this Petition. If there are any questions, please do not hesitate to call.

Very truly yours,

Michael P. Tanczyn
Michael P. Tanczyn, Esquire

MPT/gr
Enclosures

cc: John Keannelly & Barbara Shifflett
Herb Malmud



99.224-A

LAW OFFICES
MICHAEL P. TANCZYN, P.A.

Suite 106, 606 Baltimore Avenue

Towson, Maryland 21204

(410) 296-8823 • (410) 296-8824

Fax: (410) 296-8827 • Computer Fax: (410) 296-2848

re 1/12/98
cf
SJ
Soph
reschedule H.

December 16, 1998

The Honorable Arnold Jablon, Esquire
Director of Permits and Development Management
Baltimore County Office Building
111 West Chesapeake Avenue
Towson, MD 21204

Re: Case No. 99-224-A - 1104 Westwicke Lane

Dear Mr. Jablon:

With regard to your notice stating that the above captioned matter has been scheduled for public hearing on Monday, January 11, 1999 at 10:00 a.m., after checking my schedule, I find that I am previously scheduled for a hearing on that date and time in the matter of Libertini v. Evans in the District Court for Carroll County. I would, therefore, respectfully request that this matter be rescheduled for another date and time.

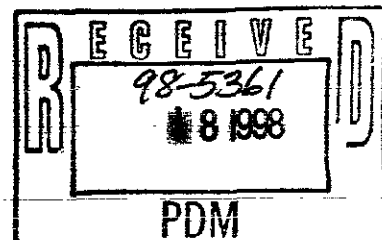
Thank you for your assistance in this regard.

Very truly yours,


Michael P. Tanczyn, Esquire

MPT/gr

cc: John Keannelly & Barbara Shifflett
Herb Malmud



LAW OFFICES
MICHAEL P. TANCZYN, P.A.

Suite 106, 606 Baltimore Avenue
Towson, Maryland 21204

(410) 296-8823 • (410) 296-8824

Fax: (410) 296-8827 • Computer Fax: (410) 296-2848

12/28/98
To [unclear] - how
about afternoon?

* Soph - see
AJ's note
w/c 12/29

December 28, 1998

The Honorable Arnold Jablon, Esquire
Director of Permits and Development Management
Baltimore County Office Building
111 West Chesapeake Avenue
Towson, MD 21204

Re: Case No. 99-224-A - 1104 Westwicke Lane

Dear Mr. Jablon:

I hope that you have had an enjoyable holiday season with your family and enjoy a safe and healthy 1999.

I am writing with regard to the above case which was rescheduled to January 21, 1999 per your last letter. Unfortunately, I am previously scheduled to try the case of Utain v. Warfield in the Circuit Court for Baltimore County on that same day beginning at 9:30 a.m. I would respectfully request either that this case be moved to the afternoon on January 21, 1999, or rescheduled to another day. Please advise which is agreeable to the County so that I can inform my clients and comply with the posting requirements.

I look forward to hearing back from you soon.

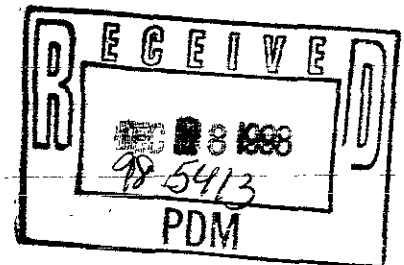
Very truly yours,



Michael P. Tanczyn, Esquire

MPT/gr

cc: John Keannelly & Barbara Shifflett
Herb Malmud





Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
pdmlandacq@co.ba.md.us

December 23, 1998

Michael P. Tanczyn, Esquire
606 Baltimore Avenue
Suite 106
Towson, MD 21204

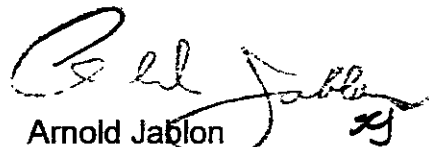
Dear Mr. Tanczyn:

RE: Case Number 99-224-A, 1104 Westwicke Lane

The above matter, previously assigned to be heard on Monday, January 11, 1999 has been postponed at your request. The case has been rescheduled for Thursday, January 21, 1999 at 10:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue.

Please be advised that, as the individual requesting and receiving the postponement, the responsibility and costs associated with the appropriate posting of the property now lies with you. The petitioner or his/her agent may not personally post or change a zoning sign. One of the currently approved vendors/posters must be contacted to do so. As soon as possible, the new hearing date and time must be affixed to the sign on the property.

Very truly yours,


Arnold Jablon
Director

AJ:scj

c: Barbara Shifflett & John Kenneally
Herb Malmud & Associates

Come visit the County's Website at www.co.ba.md.us



Printed with Soybean ink
on Recycled Paper



Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
pdmlandacq@co.ba.md.us

January 4, 1999

Michael P. Tanczyn, Esquire
606 Baltimore Avenue
Suite 106
Towson, MD 21204

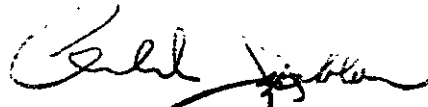
Dear Mr. Tanczyn:

RE: Case Number 99-224-A, 1104 Westwicke Lane

The above matter, previously assigned to be heard on January 21, 1999 has been postponed at your request. The case has been rescheduled for Tuesday, January 26, 1999 at 2:00 p.m. in Room 407, County Courts Building, 401 Bosley Avenue.

Please be advised that, as the individual requesting and receiving the postponement, the responsibility and costs associated with the appropriate posting of the property now lies with you. The petitioner or his/her agent may not personally post or change a zoning sign. One of the currently approved vendors/posters must be contacted to do so. If the property has been posted with notice of the hearing date, as quickly as possible a notice of postponement should be affixed to the sign(s).

Very truly yours,



Arnold Jablon
Director

AJ:scj

c: Barbara Shifflett & John Kenneally
Herb Malmud & Associates

Come visit the County's Website at www.co.ba.md.us



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on Recycled Paper



Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
pdmlandacq@co.ba.md.us

January 7, 1999

Michael P. Tanczyn, Esquire
606 Baltimore Avenue
Suite 106
Towson, MD 21204

Dear Mr. Tanczyn:

RE: Drop-Off Petition Review, Case Number 99-224-A, 1104 Westwicke Lane

At the request of the attorney/petitioner, the above referenced petition was accepted for filing without a final filing review by the staff. The plan was accepted with the understanding that all zoning issues/filing requirements would be addressed. A subsequent review by the staff has revealed unaddressed zoning issues and/or incomplete information. The following comments are advisory and do not necessarily identify all details and inherent technical zoning requirements necessary for a complete application. As with all petitions/plans filed in this office, it is the final responsibility of the petitioner to make a proper application, address any zoning conflicts and, if necessary, to file revised petition materials. All revisions (including those required by the hearing officer) must be accompanied by a check made out to Baltimore County, Maryland for the \$100.00 revision fee.

Need telephone number of legal owners on the petition form.

If you need further information or have any questions, please do not hesitate to contact me at 410-887-3391.

Very truly yours,

A handwritten signature in cursive script, appearing to read "John J. Sullivan, Jr.", written in dark ink.

John J. Sullivan, Jr.
Planner II
Zoning Review

JJS:scj

Enclosure (receipt)

c: Zoning Commissioner

Come visit the County's Website at www.co.ba.md.us



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on Recycled Paper

HAROLD H. BURNS, JR.

ATTORNEY AT LAW

Suite 201

210 East Lexington Street

Baltimore, Maryland 21202-3514

(410) 528-0044

Fax: (410) 576-7610

1/5/99

8

SJ

Re: cashier

January 4, 1999

Baltimore County
Room 111
111 West Chesapeake Avenue
Towson, Maryland 21204

Re: Copy of Petition for Case # 99-224-A

Dear Sir or Madam:

I am requesting a copy of the petition for Case # 99-224-A regarding 1104 Westwicke Lane. As per your instructions on the phone this morning, I have enclosed a check for \$2.00 for this two (2) page document to cover the cost of photocopying and postage. Please mail this to me at the above address.

Thank you for your attention to this matter.

Very truly yours,

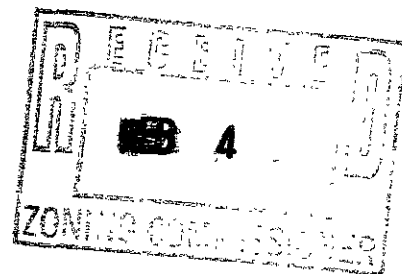
Harold H. Burns, Jr.

Harold H. Burns, Jr.

Enclosure

Copy Sent 1/6/99
sj

**James R. Farnum, Jr.
Linda S. Hurka
1111 Somerset Place
Lutherville, MD 21093
410.252.8656**



February 1, 1999

Michael P. Tanczyn
Law Offices Michael P. Tanczyn, P.A.
606 Baltimore Avenue
Suite 106
Towson, MD 21204

Re: 1104 Westwicke Lane

Dear Mr. Tanczyn,

Thank you for your letter dated January 26, 1999. My wife and I look forward to resolving this matter with your clients in an expeditious and mutually satisfactory fashion.

To that end we have continued to give this situation much consideration and have consulted with landscaping professionals in an effort to put forth a proposal that we consider fair to your clients, while at the same time, protecting our property rights and gaining back a small portion of our previously existent privacy.

We would propose the following:

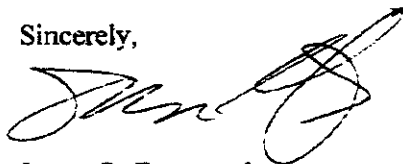
- Plantings of white pines (or a similar long needle evergreen) would be placed on the back portion of the referenced property as close to the forest preservation area as possible.
- These trees would be planted no later than thirty (30) days after the certificate of occupancy is issued by Baltimore County
- Minimum height for these trees would be fifteen (15) feet.
- They would be planted in a double row, checkerboard fashion, such that when planted the extending branches would be no further apart than one (1) foot.
- The trees would run from the eastern edge of the referenced property line to thirty (30) feet past the western edge of my property line.
- Some sort of language will have to be incorporated into the agreement to cover ongoing maintenance issues such as pruning, loss of limbs or of entire trees from storms, death, disease, etc.

Mike Tanczyn
January 29, 1999
Page Two

As you can see, we have incorporated the proposal of January 26, 1999 made by your clients while adding in some additional specific criteria such that there is no confusion on any critical points of the agreement. We believe that this is in the best interest for all involved.

Please feel free to contact me during the day at my office at 410-583-5533 should you have any questions or need further information.

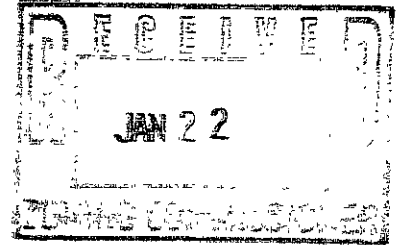
Sincerely,

A handwritten signature in black ink, appearing to read "James R. Farnum, Jr.", with a stylized, cursive script.

James R. Farnum, Jr.

January 21, 1999

The Hon. Lawrence E. Schmidt
Zoning Commissioner
Room 407
County Courts Building
401 Bosley Avenue
Towson, Maryland 21204



Re: 1104 Westwicke Lane
Case No. 99-224A

Dear Mr. Commissioner:

We, the undersigned property owners in the Community of Westwicke, are familiar with the construction at 1104 Westwicke Lane on Lot 27 of Westwicke. This lot, comprised of 2.14 acres, is in keeping with other homes constructed within the subdivision, and was approved by the Architectural Committee. We support the property owners' request for a height variance of 44 feet in lieu of the 35 foot limit in RC5 zones.

We are advised that Baltimore County issued a building permit allowing a 52 foot height, which was subsequently reissued by Baltimore County for the same height, and that construction, in accordance with the buildings plans, had progressed through the end of September, 1998, to where the property was under roof before the need for a variance was brought to the attention of the property owners.

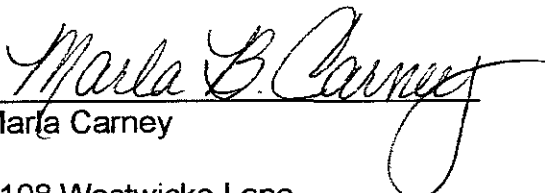
We believe that the Petition should be granted and support the request.

Signatures:



T. Kevin Carney

1108 Westwicke Lane
Lot 16



Marla Carney

1108 Westwicke Lane
Lot 16

J.L. KENNEALLY & CO. TEL: 410-321-9809

Jan 20 '99 10:59 No.001 P.05

The Hon. Lawrence E. Schmidt
Zoning Commissioner
Room 407
County Courts Building
401 Bosley Avenue
Towson, MD 21204

*Re: 1104 Westwicke Lane
Case No. 99-224A*

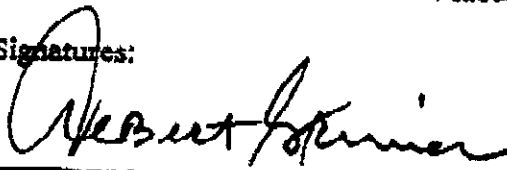
Dear Mr. Commissioner:

We, the undersigned property owners in the Community of Westwicke, are familiar with the construction at 1104 Westwicke Lane on Lot 27 of Westwicke. This lot, comprised of 2.14 acres, is in keeping with other homes constructed within the subdivision, and was approved by the Architectural Committee. We support the property owners' request for a height variance of 44 feet in lieu of the 35 foot limit in RCS zones.

We are advised that Baltimore County issued a building permit allowing a 52 foot height, which was subsequently reissued by Baltimore County for the same height, and that construction, in accordance with the building plans, had progressed through the end of September 1998 to where the property was under roof before the need for a variance was brought to the attention of the property owners.

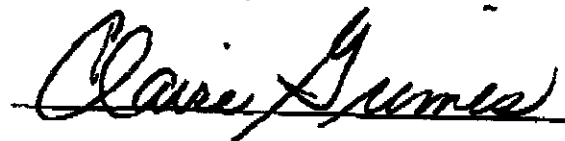
We believe that the Petition should be granted and support the request.

Signatures:



ALBERT GRIMES

1202 Scotts Knoll Court
LUTHERVILLE MD.
21093



1202 Scotts Knoll Court

The Hon. Lawrence E. Schmidt
Zoning Commissioner
Room 407
County Courts Building
401 Bosley Avenue
Towson, MD 21204

*Re: 1104 Westwicke Lane
Case No. 99-224A*

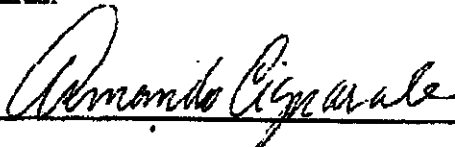
Dear Mr. Commissioner:

We, the undersigned property owners in the Community of Westwicke, are familiar with the construction at 1104 Westwicke Lane on Lot 27 of Westwicke. This lot, comprised of 2.14 acres, is in keeping with other homes constructed within the subdivision, and was approved by the Architectural Committee. We support the property owners' request for a height variance of 44 feet in lieu of the 35 foot limit in RCS zones.

We are advised that Baltimore County issued a building permit allowing a 52 foot height, which was subsequently reissued by Baltimore County for the same height, and that construction, in accordance with the building plans, had progressed through the end of September 1998 to where the property was under roof before the need for a variance was brought to the attention of the property owners.

We believe that the Petition should be granted and support the request.

Signatures:



1107 Westwicke Lane

January 21, 1999

The Hon. Lawrence E. Schmidt
Zoning Commissioner
Room 407
County Courts Building
401 Bosley Avenue
Towson, Maryland 21204

Re: 1104 Westwicke Lane
Case No. 99-224A

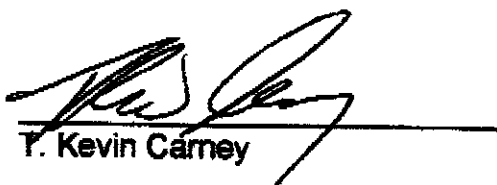
Dear Mr. Commissioner:

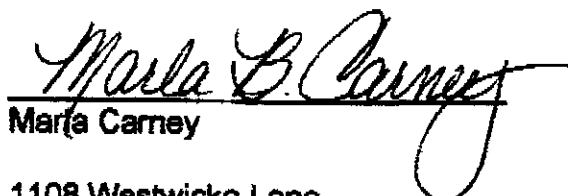
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We believe that the Petition should be granted and support the request.

Signatures:


T. Kevin Carney
1108 Westwicke Lane
Lot 16


Marla Carney
1108 Westwicke Lane
Lot 16

The Hon. Lawrence E. Schmidt
Zoning Commissioner
Room 407
County Courts Building
401 Bosley Avenue
Towson, MD 21204

*Re: 1104 Westwicke Lane
Case No. 99-224A*

Dear Mr. Commissioner:

We, the undersigned property owners in the Community of Westwicke, are familiar with the construction at 1104 Westwicke Lane on Lot 27 of Westwicke. This lot, comprised of 2.14 acres, is in keeping with other homes constructed within the subdivision, and was approved by the Architectural Committee. We support the property owners' request for a height variance of 44 feet in lieu of the 35 foot limit in RC5 zones.

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We believe that the Petition should be granted and support the request.

Signatures:

F. Richard Pannoni

Debra Pannoni

1100 Westwicke Lane

1100 Westwicke Lane

The Hon. Lawrence E. Schmidt
Zoning Commissioner
Room 407
County Courts Building
401 Bosley Avenue
Towson, MD 21204

*Re: 1104 Westwicke Lane
Case No. 99-224A*

Dear Mr. Commissioner:

We, the undersigned property owners in the Community of Westwicke, are familiar with the construction at 1104 Westwicke Lane on Lot 27 of Westwicke. This lot, comprised of 2.14 acres, is in keeping with other homes constructed within the subdivision, and was approved by the Architectural Committee. We support the property owners' request for a height variance of 44 feet in lieu of the 35 foot limit in RC5 zones.

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We believe that the Petition should be granted and support the request.

Signatures:

Mr & Mrs Francis M. Dix

1004 Westwicke Lane

_____ Westwicke Lane

The Hon. Lawrence E. Schmidt
Zoning Commissioner
Room 407
County Courts Building
401 Bosley Avenue
Towson, MD 21204

*Re: 1104 Westwicke Lane
Case No. 99-224A*

Dear Mr. Commissioner:

We, the undersigned property owners in the Community of Westwicke, are familiar with the construction at 1104 Westwicke Lane on Lot 27 of Westwicke. This lot, comprised of 2.14 acres, is in keeping with other homes constructed within the subdivision, and was approved by the Architectural Committee. We support the property owners' request for a height variance of 44 feet in lieu of the 35 foot limit in RC5 zones.

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We believe that the Petition should be granted and support the request.

Signatures: ..



1110 Westwicke Lane

The Hon. Lawrence E. Schmidt
Zoning Commissioner
Room 407
County Courts Building
401 Bosley Avenue
Towson, MD 21204

Re: 1104 Westwicke Lane
Case No. 99-224A

Dear Mr. Commissioner:

We, the undersigned property owners in the Community of Westwicke, are familiar with the construction at 1104 Westwicke Lane on Lot 27 of Westwicke. This lot, comprised of 2.14 acres, is in keeping with other homes constructed within the subdivision, and was approved by the Architectural Committee. We support the property owners' request for a height variance of 44 feet in lieu of the 35 foot limit in RCS zones.

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We believe that the Petition should be granted and support the request.

Signatures:

William H. Simon

Harold L. Simon

1204 Scotts Knoll Court

1204 Scotts Knoll Court

LAW OFFICES

MICHAEL P. TANCZYN, P.A.

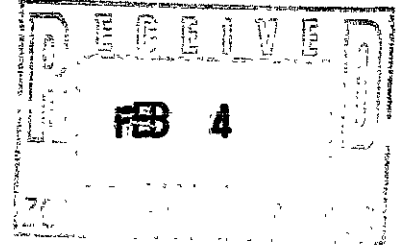
Suite 106, 606 Baltimore Avenue

Towson, Maryland 21204

(410) 296-8823 • (410) 296-8824

Fax: (410) 296-8827 • Computer Fax: (410) 296-2848

February 4, 1999



The Honorable Timothy Kotroco, Esquire
Room 405
401 Bosley Avenue
Towson, MD 21204

Re: 104 Westwicke Lane – Case No. 99-224A

Dear Mr. Kotroco:

Enclosed herewith please find proposed landscaping plans from Mr. John Kenneally and his landscaper as well as plans from Mr. Farnum and Ms. Hurka. Please note the comments of the landscaper Daniel Millender as to the problems with the Farnum proposal.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Michael P. Tanczyn".

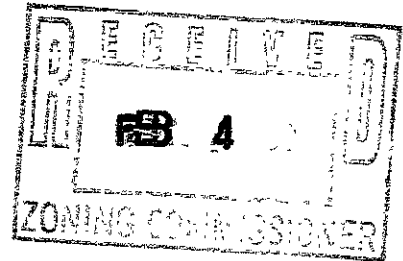
Michael P. Tanczyn, Esquire

MPT/gr
Enclosure

cc: John Kenneally and Barbara Shifflet
James Farnum, Jr. and Linda Hurka

John Kennedy
12503 Fellowship Court
Reisterstown, MD 21136

February 4, 1999



Hon. Timothy Kotroco, Esquire
401 Bosley Avenue, Room 405
Towson, MD 21204

RE: 1104 Westwicke Lane (Case #99 - 224A)

Dear Mr. Commissioner,

As requested, I have enclosed my proposed land scape plan.

By way of background, I think it is important to note the following:

My prior discussions with the county zoning inspector, Hunter Roe, Mr. Farnum and Mrs. Hurka all indicated that Mr. Farnum and Mrs. Hurka were concerned with screening the garage end of my house (about 35 feet). Therefore, my original plan was to add a staggered row of large pines that would screen the garage end of our house from their home. Based on the request of Mr. Farnum to provide a contract to document what I was verbally offering, I provided the attached document dated January 26, 1999. This proposal outlines my offer to add pine trees at least 12 feet tall with some overlapping of the trees on the side of our garage.

I believe that five or six trees of this size would screen my garage from their home. Therefore, I am concerned to see that Mr. Farnum is asking for a 175 foot long double row of pines planted so close together. I believe that his proposal is excessive and impractical for the reasons outlined in the attached proposal.

That being said, I would like to bring this matter to a mutually satisfactory conclusion. Therefore, I have enclosed a proposal from Mr. Dan Millender to provide 12' tall white pines staggered in between the existing deciduous trees. Based on my discussions with Mr. Millender, this size tree is far more likely to survive. Mr. Millender stated that white pines are very fast growing and should grow about 2' per year. As an alternative, I remain willing to plant bigger trees but a healthy distance apart. These larger trees would have to be placed further from the

Page 2 of 2

existing trees and there may be less "checkerboarding" and or fewer trees that will fit into the area available. In either event, I would only like to be responsible for replacing these trees for a reasonable period of time (2 to 3 years). Since it is not recommended to plant trees in the summer, I would like to have 90 days after the certificate of occupancy is issued by Baltimore County to complete the planting.

If you have any questions or need any additional information, please feel free to call.

Sincerely,



John L. Kenneally

**DANIEL H. MILLENDER TREE SERVICE
4234 MT. CARMEL ROAD
UPPERCO, MARYLAND 21155
(410) 239-3652**

*** * * PROPOSAL * * ***

Customer: John Kenneally

Location: 1104 Westwicke Lane
Lutherville, MD 21093

Project: To screen garage from 1111 Summerset Drive

Recommendations:

1. Spruce trees will provide a thicker and fuller screen in the long term. They grow slower but they will do much better in this shady area.
2. Use 10' trees. A 10' tree has a 36" ball which is the biggest ball that can be installed without damaging the root system of your existing hardwood trees. This size tree will have a much better survival rate and there will be less competition for the ground water necessary for the tree's root system to establish. The maximum size tree that should be considered is 12'. A 12' tree has a 45" ball which is the largest tree that could be installed without significant damage to the existing trees.
3. The pine trees should be spaced apart so that the branches are at least 5' apart (trees will be further apart where necessary). White pine are fast growing trees and spacing them too close together will cause the branches to thin and reduce their screen. By staggering the trees you will be filling the 5' area with a tree in between the two trees (where possible), providing the desired screen. Mr. Farnum's proposal to plant 15' white pines with branches 1' apart in a checkerboard fashion is not practical. These trees would require a 60" ball which will require a hole bigger yet which could not be dug without doing serious damage to the surrounding tree's root systems. To plant 15' trees I would need a back hoe which would cause additional damage to the hardwood trees. In addition, the survival (short term and long term) rate for these trees would be reduced because of competition for light and water. I will be happy to discuss this further with Mr. Farnum or the folks at the county.

Plant Material: Twelve 12' Eastern white pines planted in between your existing hardwood trees as indicated on the attached diagram. These trees will be planted to look as natural as possible while achieving the desired overlapping (where possible).

Notes: These trees will be planted approximately where indicated on the attached drawing (you contacted DEPRA and confirmed that you are allowed to plant in this area).

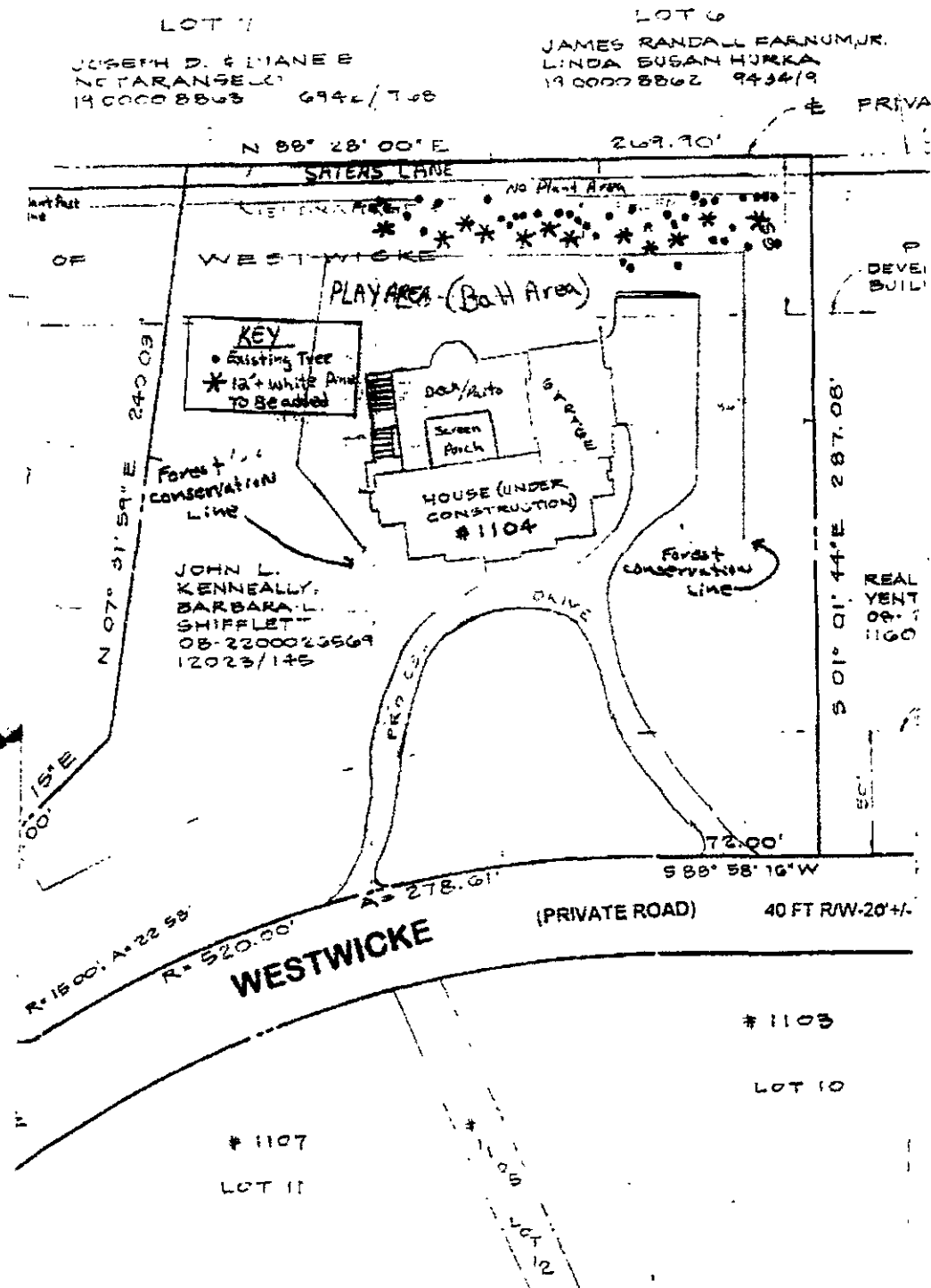
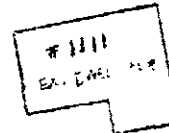
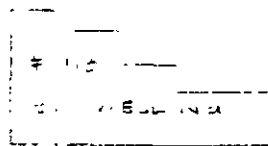
Price: \$3,000.00 12' White pines installed
(price subject to change for the cost of plant material after 60 days).

\$3,800.00 12' Norway Spruce
(price subject to change for the cost of plant material after 60 days).

Guarantee: One year from planting

Respectfully Submitted


Daniel H. Millender



James R. Farnum, Jr.
Linda S. Hurka
1111 Somerset Place
Lutherville, MD 21093
410.252.8656

Post-it® Fax Note	7671	Date	2-10-99	# of pages	2
To	tim KOTROCO	From	RANDY FARNUM		
Co/Dept		Co.			
Phone #		Phone #	410-583-5533		
Fax #	410-887-3468	Fax #			

February 10, 1999

Hon. Timothy Kotroco, Esquire
401 Bosley Avenue, Room 405
Towson, MD 21204

Re. 1104 Westwicke Lane, Case No. 99-224A

Dear Mr. Commissioner,

In reference to the above case I strenuously object to the granting of the requested zoning variance in the absence of an acceptable landscaping screening agreement. To date this does not exist.

As has been clearly established the height of the structure is 44 feet, well in excess of the zoning regulations that allow a structure height of 35 feet.

In the case of Cromwell versus Ward it was found that two burdens must be met in order for a variance to be granted:

- 1) The property and/or structure itself must be in some way unique, and
- 2) There must be a practical difficulty or unreasonable hardship in altering the structure, **neither of which can be self created**

Neither of these burdens is met in this case.

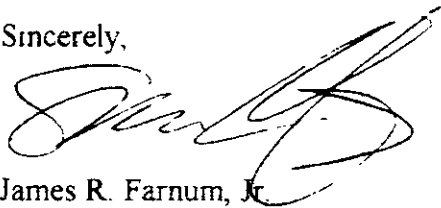
Hon Timothy Kotroco, Esquire
February 10, 1999
Page Two

There is also a need to clarify the record on several matters: 1) I dispute Mr. Kenneally's assertions in his February 4, 1999 letter to you regarding what my wife and I felt would be acceptable to rectify this matter. There were never any substantive discussions between us regarding resolution of this situation; 2) It was my impression from your comments at the hearing that the affected parties were to work out a mutually agreeable solution to this issue so the variance could be granted with my assent. At Mr. Tanczyn's request I responded in writing on February 1, 1999 with a proposal I found acceptable. I was never given the courtesy of an acknowledgment that this was ever received, let alone a response back to me to my proposal.

It has been clearly established by testimony given during the variance hearing that the height of the referenced property is well in excess of Baltimore County Zoning laws. It has also been clearly established by existing case law that this property does not meet the two burdens necessary to grant the requested variance.

Considering these factors and the lack of an acceptable landscaping screening agreement I respectfully request that you not grant the request for a variance in this case.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Farnum, Jr.", with a stylized, cursive script.

James R. Farnum, Jr.

Cc: David S. Thaler, P.E., L.S.

Petitioner's 3

John & Barbara Kenneally
12503 Fellowship Court
Reisterstown, MD 21136

October 15, 1998

Mrs. Linda Hurka
1111 Somerset Place
Lutherville, MD 21093

RE: 1104 Westwicke Lane Construction

Dear Linda,

It was a pleasure to speak with you last night. As discussed, the county zoning inspector Hunter Roe has determined that the main portion of the house is 39 feet tall (as measured by county guidelines) and that the highest point of the garage is 33 feet. I met with county officials yesterday and I am making every effort to resolve this matter expeditiously. My house placement, land clearing and house size have all been reviewed and it was determined that I am in compliance in these areas. As I explained, I was told by the county that the 35 feet is measured as an average house height and I relied on this misrepresentation. As agreed, I am going to meet with a landscape design company and architect to provide landscaping that will screen the garage end of our house from your home. Based on our preliminary discussions, we plan to add a screen of 12 feet to 18 feet tall pine trees that will help block your view of the back of our house. We are hopeful that these steps will bring this matter to a reasonable conclusion and provide additional privacy for you and your family.

If you have any additional questions, problems or concerns, I respectfully request that you contact me personally at (410) 560-3147. You will find me very reasonable and responsive. It is my sincere desire to minimize any disturbance to you, your family and others in the neighborhood during our construction.

Sincerely,


John L. Kenneally

cc: Alan P. Hoblitzell, Jr.
Robert Aumiller

P.S. If there is anything I can do to further minimize the impact of our construction, please feel free to call.



BALTIMORE COUNTY, MARYLAND

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT

TOWSON, MARYLAND 21204

[Signature]
DIRECTOR

BUILDING PERMIT

[Signature]
BUILDINGS ENGINEER

PERMIT #: B330088 CONTROL #: NR DIST: 08 PREC: 08
DATE ISSUED: 02/13/98 TAX ACCOUNT #: 2200026569 CLASS: 04

PLANS: CONST 2 PLOT 7 R FLAT 0 DATA 0 ELEC YES PLUM YES
LOCATION: 1104 WESTWICKE LANE
SUBDIVISION: WESTWICKE

OWNERS INFORMATION

NAME: KENNEALLY, JOHN & SHIFFLETT, BARBARA
ADDR: 113 WEST RD STE101 TOWSON, MD 21204

TENANT:

CONTR: ROGERS REALTY

ENGR:

SELLR:

WORK: CONST SFD W/3 CAR GARAGE, FIREPLACES (OUTSIDE
PROJ NOT TO EXCEED 4'X10'), REAR SCREEN PORCH,
BAY WINDOWS & 5 BDRMS.
111'X84'X52'=48,368SF.

BLDC. CODE: 1 AND 2 FAM. CODE

RESIDENTIAL CATEGORY: DETACHED

OWNERSHIP: PRIVATELY OWNED

PROPOSED USE: SFD

EXISTING USE: VACANT

TYPE OF IMPRV: NEW BUILDING CONSTRUCTION

USE: ONE FAMILY

FOUNDATION: BLOCK

BASEMENT: FULL

SEWAGE: PRIV. PROPOSED

WATER: PRIV. EXISTS

LOT SIZE AND SETBACKS

SIZE: 2.1366AC

FRONT STREET:

SIDE STREET:

FRONT SETB: 125'

SIDE SETB: 96'/84'

SIDE STR SETB:

REAR SETB: 74'

**THIS PERMIT
EXPIRES ONE
YEAR FROM DATE
OF ISSUE**

**ZADM'S
NOTICE TO BUILDERS
IS PART OF THIS PERMIT**

Pet 4 A



BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT
TOWSON, MARYLAND 21204

[Signature]
DIRECTOR

BUILDING PERMIT

[Signature]
BUILDINGS ENGINEER

PERMIT #: B330098 CONTROL #: NR DIST: 08 PREC: 08
DATE ISSUED: 02/13/98 TAX ACCOUNT #: 2200026569 CLASS: 04

PLANS: CONST 2 PLOT 7 R FLAT 0 DATA 0 ELEC YES PLUM YES
LOCATION: 1104 WESTWICKE LANE
SUBDIVISION: WESTWICKE

OWNERS INFORMATION
NAME: KENNEALLY, JOHN & SHIFFLETT, BARBARA
ADDR: 113 WEST RD STE 101 TOWSON, MD 21204

**THIS PERMIT
EXPIRES ONE
YEAR FROM DATE
OF ISSUE**

TENANT:
CONTR: JOHN KENNEALLY
ENGR:
SELLR:
WORK:

CONST SFD W/3 CAR GARAGE, FIREPLACES (OUTSIDE
PROJ NOT TO EXCEED 4'X10'), REAR SCREEN PORCH,
BAY WINDOWS & 5 BDRMS.
111'X84'X52'=18,367SF. REISSUED 4/24/98 TO
REFLECT CHANGE IN CONTRACTOR.

**ZADM'S
NOTICE TO BUILDERS
IS PART OF THIS PERMIT**

BLDG. CODE: 1 AND 2 FAM. CODE
RESIDENTIAL CATEGORY: DETACHED

OWNERSHIP: PRIVATELY OWNED

PROPOSED USE: SFD
EXISTING USE: VACANT

TYPE OF IMPRV: NEW BUILDING CONSTRUCTION
USE: ONE FAMILY
FOUNDATION: BLOCK BASEMENT: FULL
SEWAGE: PRIV. PROPOSED WATER: PRIV. EXISTS

LOT SIZE AND SETBACKS

SIZE: 2.1366AC
FRONT STREET:
SIDE STREET:
FRONT SETB: 125'
SIDE SETB: 96'/84'
SIDE STR SETB:
REAR SETB: 74'

Pet 4B



Baltimore County
Department of Permits and
Development Management

Director's Office
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
(410) 887-3353
Fax: (410) 887-5708

October 15, 1998

Mr. John Kenndeally and Ms. Barbara Shifflett
113 West Road Suite 101
Towson, Md 21204

Re: 1104 Westwicke Lane
Permit No. B330088

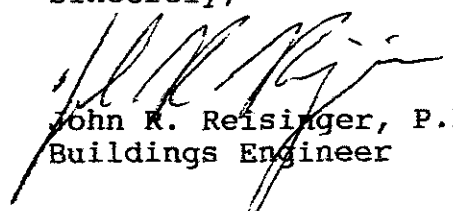
Dear Mr. Kenndeally and Ms. Shifflett:

The above permit calls for a house that is 52 feet in height. This is considerably over the Zoning limit of 35 feet and was approved in error. At the moment, the structure is approximately 39 feet in height.

In view of this situation, no inspection will approve any portion of the house that exceeds the 35 foot limit, and no occupancy will be granted under the present conditions. In order to correct the problem, it will be necessary for you to either lower the height of the house to 35 feet or file for and obtain a variance for the present height. You are further directed to refrain from any further work on any part of the house that exceeds 35 feet in height until this matter is resolved.

If you have any questions or require further information, please contact me at 887-4585, or Carl Richards at 887-3391.

Sincerely,


John R. Reisinger, P.E.
Buildings Engineer

c. Carl Richards
Building Inspection

Pet Ex 5





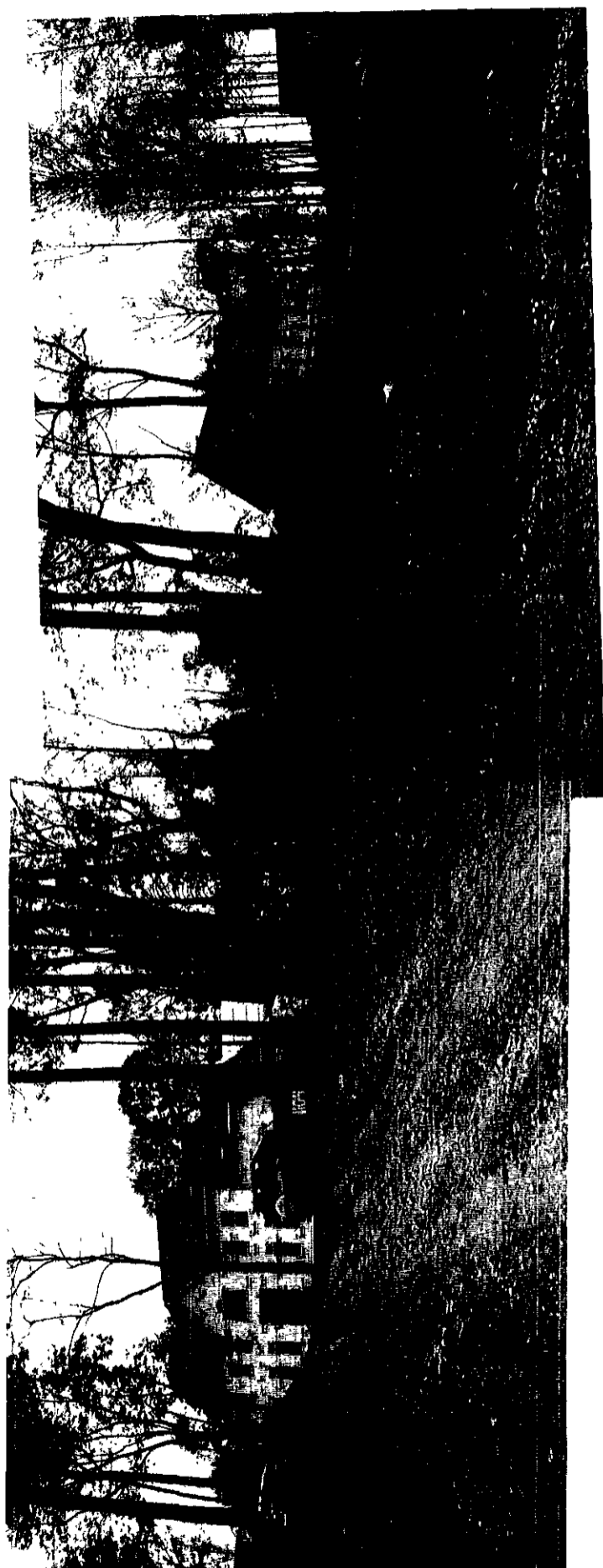
Baltimore County Zoning Commissioner
Office of Planning
Suite 405, County Courts Bldg.
401 Bosley Avenue
Towson, Maryland 21204

APPROVED
DATE
BY

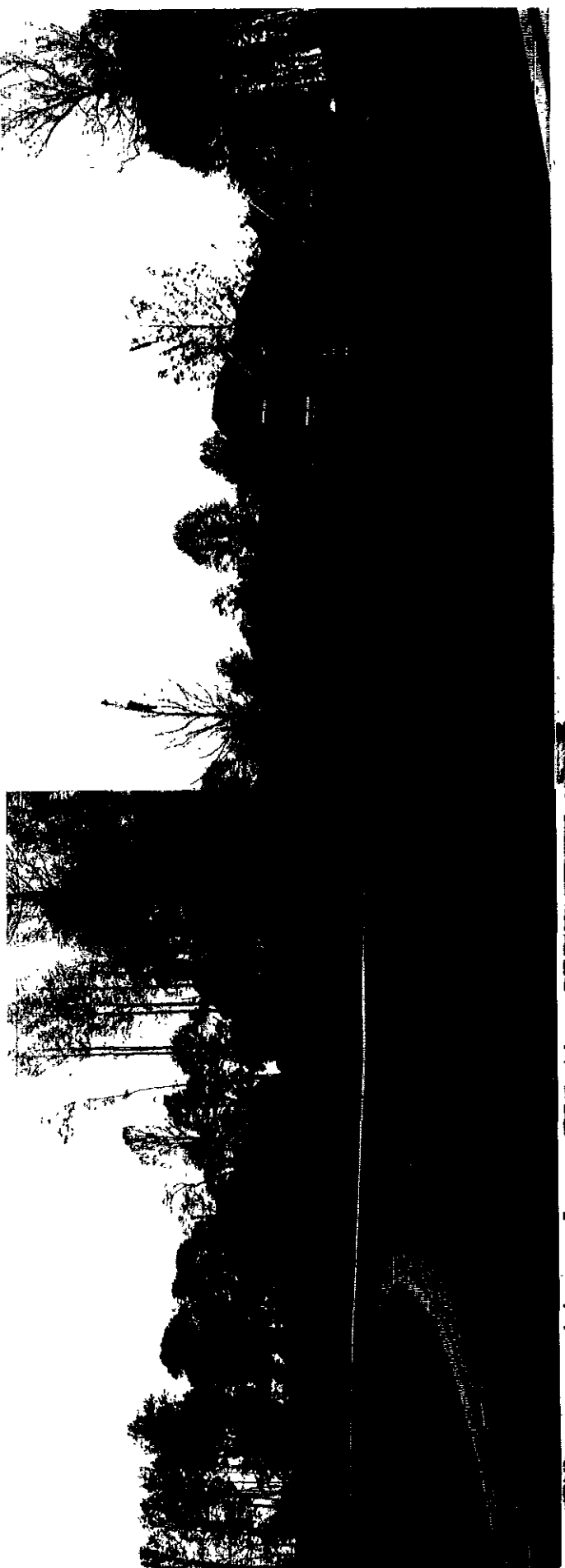


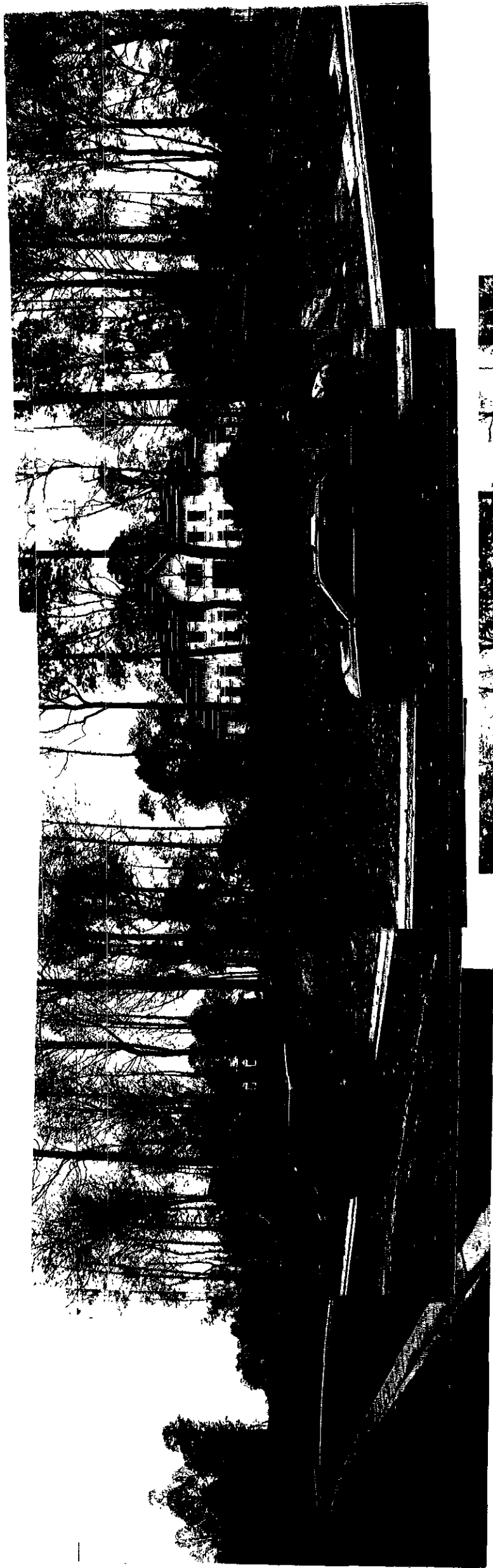












NOTES

1 OWNER/PETITIONER:
JOHN L. KENNELLY & BARBARA L. SHIFFLETT
1104 WESTWICK LANE
BROOKLANDVILLE, MD 21037
TELEPHONE: 410 568-3147

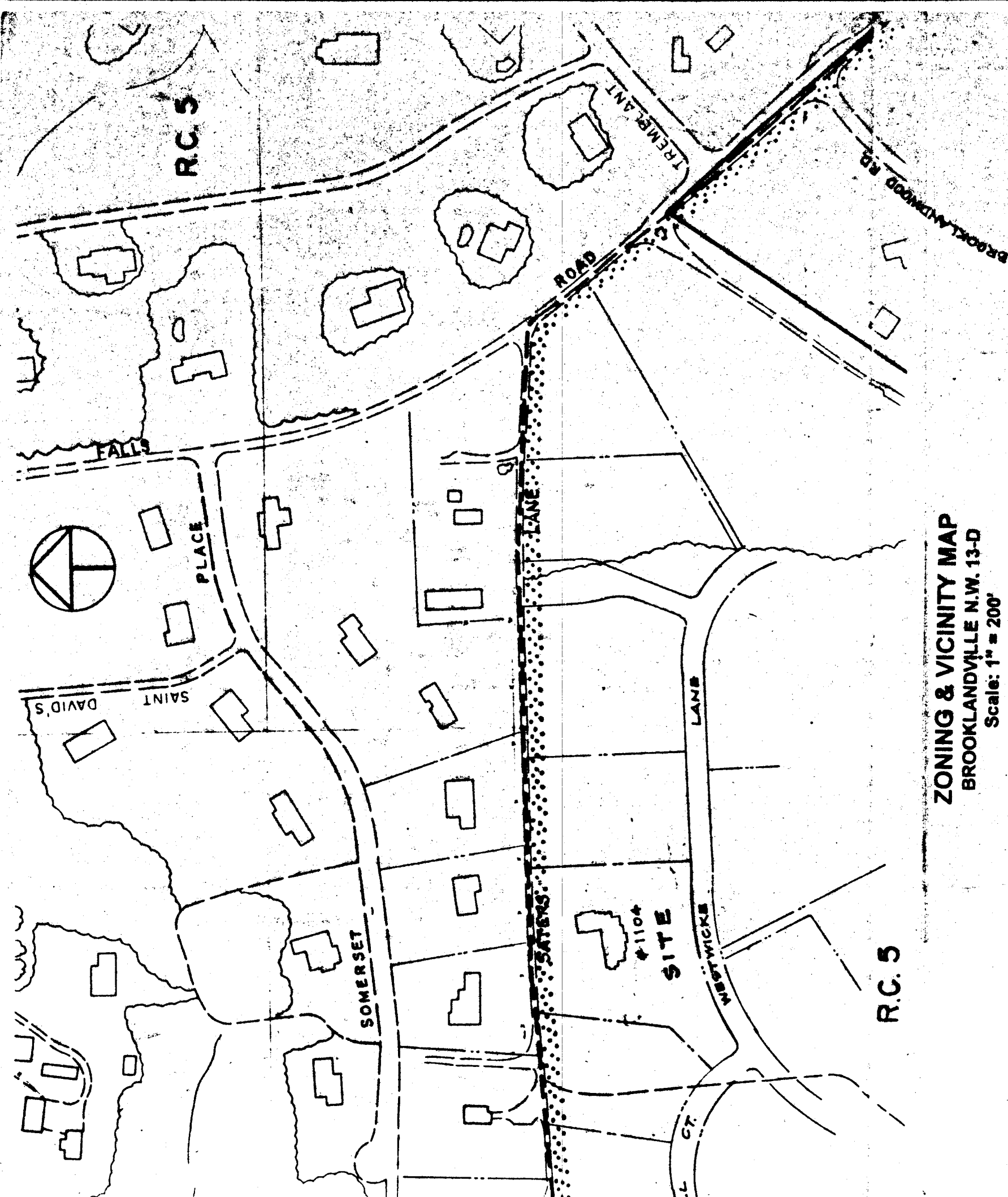
DEED REFERENCE: LOT 11, PLAT OF WESTWICK, P.B. 68-48, LIBER 1923, FOLIO 145
TAX MAP 64, 12 GRID, 80 PARCEL
ACCOUNT No. 08-2200026568

2 EXISTING ZONING: R.C. 5

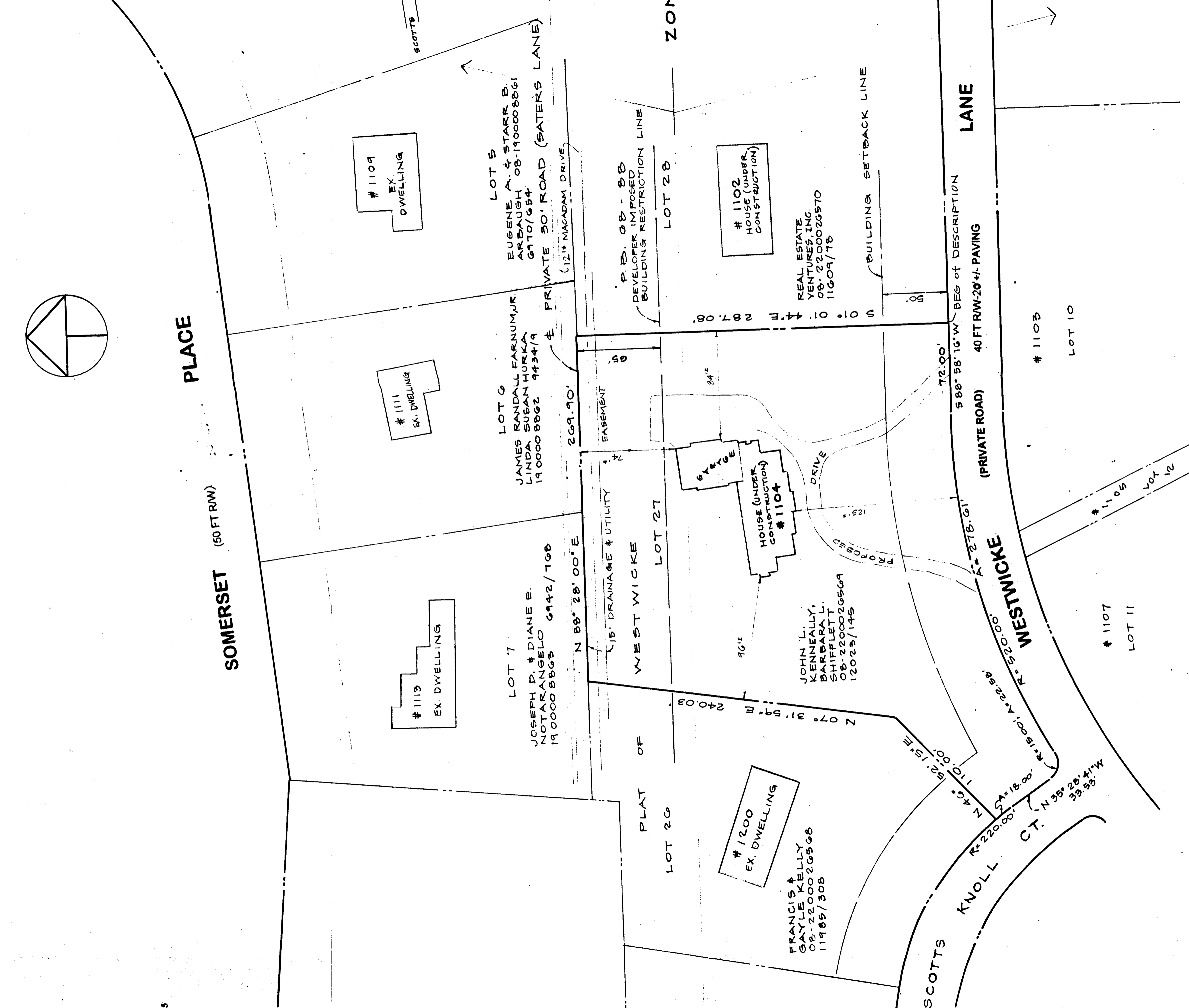
3 EXISTING & PROPOSED USE: SINGLE FAMILY RESIDENCE.

4 PRIVATE WATER AND SEWER SERVES THIS SITE.

5 AREA OF LOT 27: 2.137 ACRES +/-



ZONING & VICINITY MAP
BROOKLANDVILLE N.W. 13-D
Scale: 1" = 200'



ZONED R.C. 5

Petitioner's Ex #1

PLAT TO ACCOMPANY A PETITION FOR A VARIANCE 1104 WESTWICK LANE 8TH ELECTION DISTRICT 3RD COUNCILMANIC DISTRICT BALTIMORE COUNTY, MARYLAND

Scale: 1" = 50' November 7, 1998

Prepared by:
H. Melrud & Associates, Inc.
100 Church Lane
Baltimore, Maryland 21208
Telephone 410 633-9311



9822

THE PROPERTY OUTLINE SHOWN HEREON IS FROM THE AVAILABLE DATA AND
NOT FROM A PROPERTY LINE SURVEY. A TITLE REPORT WAS NOT
OBTAINED FOR THIS PLAT.
THE PROPERTY SHOWN HEREON IS SUBJECT TO ALL EASEMENTS,
ENCUMBRANCES, RIGHTS OF WAY AND COVENANTS OF RECORD AND LAW.